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U.S. DISTRICT COURT  
DISTRICT OF WYOMING

2016 APR 13 AM 8:06

STEPHAN HARRIS, CLERK  
CHEYENNE

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING**

UNITED STATES OF AMERICA,

Plaintiff,

v.

SCOTT MICHAEL LEWIS, and  
GILBERT WAYNE WILES, JR.,

Defendants.

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No. 16-CR-19-ABJ

**ORDER DENYING GOVERNMENT'S SECOND MOTION TO CONTINUE TRIAL**

The government has filed a motion seeking to continue the trial presently scheduled for April 18, 2016, asserting that pretrial defense motions have generated excludable time under 18 U.S.C. § 3161(h)(1)(D) and (H). Counsel for the government also represents that co-counsel, AUSA Leschuck, who has not filed an appearance, would not be available for the trial on the presently scheduled date.

This Indictment in this matter was filed January 14, 2016. Counsel appearing for the government when the Indictment was filed was Thomas A. Szott, Assistant United States Attorney. Since that date, no other attorney for the government has entered an appearance in the above captioned matter nor has any other attorney for the government participated in proceedings before this Court. Defense motions have been pending at least since March 30, 2016; the motions were set for hearing by notice of March 14, 2016. On

April 6, 2016, the government filed a motion seeking to continue the trial date, which was opposed by defendant Wiles and to which defendant Lewis had no objection. The government reasserted its motion to continue the trial date, for the same reasons, at the hearing held on April 8, 2016, and again by motion filed of April 11, 2016. The government's response to the various defense motions was filed April 6, 2016. A hearing was held on the motions on April 8, 2016; the Court advised the parties of its tentative rulings on the pending motions at that time. An Order on Pretrial Motions is forthcoming. The Court notes that the government has already filed proposed jury instructions and proposed voir dire. The Court has also been advised that a plea agreement with defendant Lewis has been reached; his change of plea hearing is scheduled for April 13, 2016. Defendant Wiles has continued to object to the government's motion requesting a continuance and says he is ready to proceed to trial. See Doc. 58.

The Court finds that the government's second motion to continue trial should be denied. No appearance has been filed by any attorney on behalf of the United States other than Mr. Szott. What AUSA Leschuck's role has been in the preparation and handling of this matter is unclear. The Court is aware that AUSA Heimann has been involved in the related civil forfeiture (Case No. 14-CV-151-J) matter since August of 2014, which has been stayed pending the outcome of this criminal action. The possibility that other counsel for the government may serve as co-counsel is simply not a persuasive reason to grant the requested continuance, given that this case, and the related civil forfeiture action, have

been before the Court for a considerable period of time and that the continuance has been opposed by the remaining defendant, Mr. Wiles. Accordingly, it is therefore

**ORDERED** that the Government's Second Motion to Continue Trial (Doc. 54) shall be, and is, **DENIED**.

Dated this 12<sup>th</sup> day of April 2016.

  
ALAN B. JOHNSON  
UNITED STATES DISTRICT JUDGE